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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,386	08/28/2001	James C. Ori	705558US1	5998

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EXAMINER

GUTMAN, HILARY L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/941,386	ORI ET AL. <i>NF</i>
	Examiner	Art Unit
	Hilary Gutman	3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 March 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2 and 4-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 2 and 4-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .      6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 2, 4, 6-8, 10, 13, 15, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Aloe et al. (6,047,988).

For claim 2, Aloe et al. disclose a motor vehicle frame assembly (Figure 7) having a first tubular frame member 34 and a structural member 38 disposed in the first tubular frame member, the structural member comprising: a generally tubular body having an outer perimeter

complementary to an inner perimeter of the first tubular frame member, the tubular body being disposed within the tubular frame member to increase the movement of ~~inertia~~ of the first tubular frame member; and at least one rib 312 disposed in the tubular body; wherein the frame assembly further includes a second tubular frame member 40 intersecting the first tubular frame member to form a joint and the structural member 38 is located in the first tubular frame member at the joint. The structural member is constructed of aluminum.

For claims 6 and 7, it should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

In addition, the structural member is fixedly attached to the first tubular frame member. The structural member may be fixed by welding or adhesive. The tubular body has a length from top to bottom and the rib extends the length of the tubular body. The rib 312 is oriented generally vertically.

For claim 17, Aloe et al. disclose a motor vehicle frame assembly having first and second elongate frame members 34, 40 and a reinforcing member 38, the reinforcing member comprising: a tube having an outer perimeter closely conforming to an inner perimeter of a tubular portion of the first frame member and a reinforcement structure spanning an interior void of the tube; and wherein the first and second frame members are connected at a joint and the reinforcing member is disposed in the first frame member at the joint. The reinforcement structure comprises a generally longitudinal rib 312. The second frame member 40 is tubular

and the joint occurs at a central portion of the first frame member, the reinforcing member 38 extending within the first frame member through the joint.

3. Claims 2, 8, 11, 13, and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Panoz (6,470,990).

For claim 2, Panoz discloses a motor vehicle frame assembly (Figures 10-11) having a first tubular frame member and a structural member disposed in the first tubular frame member, the structural member comprising: a generally tubular body having an outer perimeter complementary to an inner perimeter of the first tubular frame member, the tubular body being disposed within the tubular frame member to increase the movement of inertial of the first tubular frame member; and at least one rib disposed in the tubular body; wherein the frame assembly further includes a second tubular frame member intersecting the first tubular frame member to form a joint and the structural member is located in the first tubular frame member at the joint. The structural member is fixedly attached to the first tubular frame member. The structural member may be fixed by fasteners. The tubular body has a length from top to bottom and the rib extends the length of the tubular body. The rib is oriented generally vertically. The at least one rib comprises multiple ribs oriented in an intersecting pattern.

4. Claims 17 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Barz et al. Barz et al. (6,467,834) disclose a motor vehicle frame assembly having first and second elongate frame members 12, 15 and a reinforcing member 16, the reinforcing member comprising: a tube having an outer perimeter closely conforming to an inner perimeter of a tubular portion of the first frame member and a reinforcement structure spanning an interior void

of the tube; and wherein the first and second frame members are connected at a joint, where the first elongate frame member 12 meets the second elongate frame member 15, and the reinforcing member is disposed in the first frame member at the joint. The reinforcing member 16 is fully enclosed by the first frame member.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aloe et al. as applied to claim 2 above, and further in view of the well known prior art.

Aloe et al. disclose the structural member being constructed of aluminum but lacks the structural member being constructed of steel.

The well known prior art (Column 1, lines 21-26 of Aloe et al. as well as Wycech '588 and Townsend) teaches the use of steel for motor vehicle structures such as frame assemblies since this material has a high rigidity and strength.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the structural member of Aloe et al. out of steel as taught by the well known prior art in order to provide additional rigidity and strength to the frame assembly.

8. Claims 9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aloe et al. as applied to claim 2 above, and further in view of the well known prior art.

Aloe et al. disclose the structural member being fixedly attached to the tubular main frame by welding as well as by adhesive but lacks the attachment of the components by an interference fit, fasteners, or an external depression.

However, these other methods of attaching the structural member to the tubular main frame are possible. Furthermore, interference fits, external depressions, and fasteners of the type claimed are well known in the prior art (see Rich et al. 5,219,197, Townsend 6,010,182, and Vlahovic 5,397,115) for use in attaching vehicle components together and it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used any of the other methods for attaching the structural member of Aloe et al. as obvious expedients.

9. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Aloe et al. as applied to claim 1 above and further in view of Makita et al.

Aloe et al. lack the rib orientated generally horizontally.

Makita et al. teach a motor vehicle frame assembly having a tubular frame member for absorbing energy in the event of a collision and a structural member 7 (Figure 6C) disposed in the tubular frame member, the structural member comprising: a generally tubular body having an outer perimeter complimentary to an inner perimeter of the tubular frame member, the tubular body being disposed within the tubular frame member to locally increase the movement of inertial and at least one horizontally oriented rib disposed in the tubular body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a horizontally oriented rib as taught by Makita et al. in place of or in addition to the vertically extending rib of Aloe et al. in order to provide additional strength to the motor vehicle frame assembly.

*Response to Arguments*

10. Applicant's arguments with respect to claims 2 and 4-20 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496. The examiner can normally be reached on M-F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

**13. Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

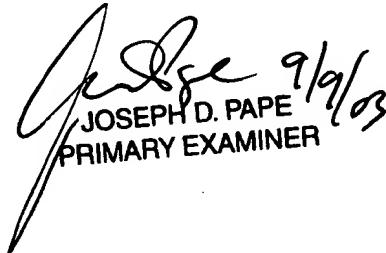
(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).

hlg  
September 5, 2003

  
JOSEPH D. PAPE  
PRIMARY EXAMINER